

1 HONORABLE JOHN C. COUGHENOUR
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8 UNITED STATES DISTRICT COURT
9 FOR THE WESTERN DISTRICT OF WASHINGTON (SEATTLE)

10 PRODIGY FINANCE CM2017-1 DAC

Case No: 2:21-cv-01601

11 Petitioner,

v.

12 PENHA CRISTINA BRAGA MARTINS,

13 Respondent.

**MOTION FOR ENTRY OF
DEFAULT AND SUPPORTING
MEMORANDUM AGAINST
DEFENDANT PENHA CRISTINA
BRAGA MARTINS**

**NOTE ON MOTION
CALENDAR: January 12, 2022**

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16 Plaintiff Prodigy Finance CM2017-1 DAC (“Plaintiff”) moves this Court for entry of
17 default against Defendant Penha Cristina Braga Martins (hereinafter referred to as “Defendant”)
18 pursuant to Fed. R. Civ. P. 55(a). The Petition to Confirm Foreign Arbitral Award in this matter
19 was filed with the Court on November 30, 2021. *See*, Docket Entry No. 1. The summons and
20 complaint were duly served on Defendant on December 21, 2021. *See*, Declaration in Support of
21 Plaintiff’s Motion for Entry of Default, ¶3. Defendant has failed to appear or otherwise defend
22 herself in this matter. *See*, Docket. No answer or other defense has been filed by Defendant.
23 Defendant was not in military service and is not an infant or incompetent. *See*, Declaration in
24 Support of Motion for Entry of Default, ¶6. For the reasons set forth below, this Court should
25 enter default against Defendant.

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Motion for Entry of Default
And Supporting Memorandum - 1

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I. Factual Background

A Final Award in favor of Petitioner was issued by the Arbitrator on May 19, 2021 in Prodigy Finance CM2017-1 DAC v. Penha Cristina Braga Martins, Chartered Institute of Arbitrators, cause number PF10, pursuant to which the Arbitrator awarded to Petitioner a principal amount of \$124,770.48, plus pre-judgment interest in the amount of \$15,613.02 and continuing post-judgment interest of \$29.91 per diem. The Arbitrator also ordered Defendant to pay for the arbitration proceedings. After the Defendant failed to pay as ordered by the Arbitrator, Plaintiff filed the present Petition on November 30, 2021. Defendant was personally served with the Petition, Summons and other related documents on December 21, 2021. As of the date of this Motion, Defendant has failed to answer, file any response or otherwise contact Plaintiff to resolve the dispute.

II. Points and Authorities

A. Motion for Entry of Default should be granted when Defendant has failed to appear, plead or defend.

Federal Rules of Civil Procedure, Rule 55(a) allows a party to apply to the Court for a default judgment where a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend in an action. The grant or denial of a motion for the entry of a default is within the discretion of the trial court. *Lau Ah Yew v. Dulles*, C.A.9 (Hawai'i) 1956, 236 F.2d 415.

In the present case, the summons and complaint were properly and personally served upon Defendant on December 21, 2021. *See*, Declaration in Support of Motion for Entry of Default, ¶3. To date, Defendant has failed to answer or to file any responsive pleading or to challenge such matters as service, venue, and the sufficiency of prior pleadings, and as a result, have failed to appear, plead, or otherwise present a defense in this matter. *See*, Docket. Over 21 days have elapsed since Defendant was properly served and Defendant has failed to appear, plead or otherwise defend against the Plaintiff's complaint. *See*, Docket. Because Defendant

1 failed to appear, plead, or otherwise defend this matter in a timely manner as proscribed by the
2 Federal Rules of Civil Procedure, Plaintiff is therefore entitled to entry of default against this
3 Defendant. Pursuant to the provisions of Rule 55(a) of the Federal Rules of Civil Procedure, this
4 Court is empowered to enter a default against Defendant for relief sought by Plaintiff in its
5 complaint, and written notice of this action has been given to Defendant as set forth in the
6 attached Declaration.

III. Conclusion

9 For the aforementioned reasons the Plaintiff respectfully asks this Court enter default
10 against Defendant Penha Cristina Braga Martins.

DATED this 13th day of January, 2022.

Wong Fleming

Noel Yumo, WSBA No. 30584
Attorney for Plaintiff